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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Richard Alan Barraclough

Gerry01

2184

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01/30/2006

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EXAMINER

PITARO, RYAN F

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,467	Applicant(s) BARRACLOUGH, RICHARD ALAN	
	Examiner Ryan F. Pitaro	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 have been examined.

Response to Amendment

2. This action is in response to Amendment B filed 10/14/2005. This action is non final.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 13 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13 and 21 are non-statutory for at least the reason that it is not tangibly embodied in a manner so as to be executable.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7,9-14,16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillis ("Gillis", US 6,871,340) in view of Thomas ("Thomas", US 2002/0054096).

As per claim 1, Gillis teaches a computer program process, called a wizard builder, executable on a computer wherein the setup wizard is constructed by means of asking a human user of the application program simple verbal questions, in English or other language convenient to a human user, and wherein the wizard builder does not require a human user to have any knowledge of writing or using computer programs (Column 2 lines 65-67, Column 3 lines 1-12, Abstract). However, Gillis fails to distinctly point out a process for adapting an application program to function with devices or sensors monitoring or controlling a process occurring in real-time, wherein the wizard builder constructs a setup wizard which sets up a de facto interface between the devices or sensors and the application program, and asking questions about the model and manufacturer of the devices or sensors. Thomas does teach a process for adapting an application program to function with devices or sensors monitoring or controlling a process occurring in real-time ([0023] lines 9-12), wherein the wizard builder constructs a setup wizard which sets up a de facto interface between the devices or sensors and the application program ([0024] lines 1-5), and asking questions about the model and manufacturer of the devices or sensors ([0032] lines 1-15). Therefore it would have been obvious to an artisan at the time of the invention to combine the process of Gillis with the teaching of Thomas. Motivation to do so would have been to provide a rapid

and cost effective method to enable an integrator to select a small number of important parameters of an electronic device for a custom interface.

As per claim 2, Gillis-Thomas teaches altering a setup wizard (Gillis, Column 2 lines 65-67, Column 3 lines 1-12), wherein a human user of the application program can alter and create another setup wizard, which can be run to set up an application program with connection details and properties of other devices or sensors (Thomas, [0020] lines 1-15).

As per claims 3-4, Gillis-Thomas teaches the computer program process, wherein the setup wizard constructed by the computer program process in the form of a disk file is adapted to be moved to another computer by a human user without any knowledge of writing computer programs (Gillis, Column 16 lines 49-65).

As per claim 5, Gillis-Thomas teaches wherein the setup wizard is adapted to be altered by a wizard program which displays original answers to the verbal or other suitable language questions and provides a prompt for a human user to enter new answers about the devices or sensors (Column 4 lines 45-64, Figures 3a, 3b)).

As per claim 6, Gillis-Thomas teaches the process further comprising a server program which contains data values for many devices or sensors for monitoring or controlling a process occurring in real-time, and wherein the setup wizard sets up a de facto interface between the application program, and the server program (Thomas, [0024] lines 1-5).

As per claim 7, Gillis-Thomas teaches a process for creating the setup wizard comprising the steps of: (a) the user's instructing the application program to create a

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wizard (Gillis, Column 2 lines 65-67, Column 3 lines 1-12), (b) the application software's displaying verbal questions for the user requesting details of connection to, and operating properties of, or both, a first device or sensor, and subsequently, in sequence, of any other devices or sensors having different connection details or operating properties (Gillis, Column 2 lines 65-67, Column 3 lines 1-12, Abstract; Thomas [0024] lines 1-5), and (c) the application software's storing answers in a setup wizard file which defines the setup wizard (Gillis, Column 3 lines 18-40, Column 7 lines 5-14).

As per claim 9, Gillis-Thomas teaches a process for running a setup wizard comprising the steps of: (a) the user's asking the application software to run a wizard (Gillis, Column 7 lines 6-46), (b) the application software's reading the setup wizard file (Gillis, Column 7 lines 6-46), (c) the wizard's determining whether the answers to verbal questions are already in the setup wizard file or can be inferred from the answers in the setup wizard file, and (d) if the answer in the preceding step is yes, stopping the process, whereby the application is left in a state of having connection details and properties of the devices or sensors (Thomas, [0025] lines 19-24).

As per claim 10, Gillis-Thomas teaches a process for running a setup wizard comprising the steps of: (a) the user's asking the application software to run a wizard (Gillis, Column 7 lines 6-46), (b) the application software's reading the setup wizard file (Gillis, Column 7 lines 6-46), (c) the wizard's determining whether the answers to all the verbal questions are already in the setup wizard file or can be inferred from the answers in the setup wizard file, (d) if the answer to the preceding question is no, the wizard's asking the user for information that is unique to a new sensor or device, and (e) the

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application software is incorporating connection details and properties of a new device or sensor (Thomas, [0025] lines 19-24).

As per claim 11, Gillis-Thomas teaches the wizard builder computer program process to be contained within the application software, and wherein a wizard file is held on a memory means within a computer (Gillis, Column 3 lines 12-25).

As per claim 12, Gillis-Thomas teaches the computer program process wizard operates without the use of script files (Gillis, Column 3 lines 1-12,25-40).

As per claim 13, Gillis-Thomas teaches a computer program process which uses a wizard to create wizards, for use in connection with application programs, and which does not use scripts (Gillis, Column 3 lines 1-40).

As per claim 14, Gillis-Thomas teaches the setup wizard file to be adapted to be moved to another computer for use with the same or similar application program installed in the other computer (Gillis, Column 13 lines 60-67, Column 14 lines 1-37).

As per claim 16, Gillis-Thomas teaches the process wherein the computer running the application software comprises a personal computer, containing a communications card and server software that drives and communicates with the communications card, and wherein the personal computer may be running any suitable operating system software means (Gillis, Column 3 lines 1-65; wherein software creator tool can implement a software tool requiring information from an external machine).

As per claim 17, Gillis-Thomas teaches the wizard file to be adapted to be moved to another computer by a process of using a transfer means selected from the group

consisting of: a floppy disk, serial link, network connection, or email (Gillis, Column 13 lines 60-67, Column 14 lines 1-37).

Claims 18-20 are individually similar in scope to claim 3, and are therefore rejected under similar rationale.

As per claim 21, Gillis-Thomas teaches a wizard builder computer program implemented as a wizard that does not use scripts to build the wizard (Gillis, Column 3 lines 1-12,25-40).

7. Claims 8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillis ("Gillis", US 6,871,340) and Thomas ("Thomas" US 2002/0054096) in view of Gauthier et al. ("Gauthier", US 6,502,234).

As per claim 8, Gillis-Thomas teaches a process for altering the setup wizard (para.30, lines 1-2). However, Gillis-Thomas does not disclose the steps of (a) the user's instructing the application software to alter the setup wizard, (b) the application software's rerunning the verbal questions asked when the setup wizard file was created, (c) the applications software's setting the default answers to the verbal questions from the contents of the setup wizard file, (d) if the user alters a previous answer, the application software's altering the contents of the file for the setup wizard file, (e) the application software's asking the user by verbal questions for details of connection to, or operating properties of, or both, a first device or sensor, and subsequently, in sequence, any other devices or sensors having different connections details or

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operating properties and the application software's storing any alternate answers in the setup wizard file. Gauthier teaches a process of altering a wizard to create a new wizard comprising of the above mentioned steps (col.19, lines 40-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to include Gauthier's teaching with Gillis-Thomas's process in order to save time in creating wizards.

As per claim 15, Gillis-Thomas teaches the setup wizard file to be adapted to be moved to another computer for use with the same or similar application program installed in the other computer (Gillis, Column 13 lines 60-67, Column 14 lines 1-37).

Response to Arguments

Applicants argue the validity of the 101 rejection, stating there is no justification for making this rejection. However, the reason is clear, as previously stated, the computer programs are not tangible embodied in a manner as to be executable. While it may be clear how to execute a computer program from the specification or one skilled in the art, the claim language does not specify that it need be executing on a computer or even tangibly embodied. Mere instructions for performing a computer program does not necessarily mean that it must be executing on processor or even tangibly embodied. For at least the above reasons, the Examiner has upheld the 101 rejection.

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan F Pitaro whose telephone number is 571-272-4071. The examiner can normally be reached on 7:00am - 4:30pm Monday -Thursday, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Pitaro
Art Unit 2174
Patent Examiner

RFP

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